

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION

TROY WOODRUFF,

Petitioner,

v.

No. 14-1054

UNITED STATES OF AMERICA,

Respondent.

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ORDER DIRECTING RESPONDENT TO PRODUCE ATTORNEY AFFIDAVIT

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Before the Court is the *pro se* 28 U.S.C. § 2255 motion of the Petitioner, Troy Woodruff, to vacate, set aside or correct his sentence (the "Petition"). (D.E. 1.) Woodruff, Bureau of Prisons register number 23927-076, is an inmate at the Federal Correctional Institution – Medium in Forrest City, Arkansas.

On May 17, 2010, a federal grand jury, in Case No. 1:10-10052-JDB, returned a one-count indictment against Petitioner, charging him with being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g). On May 26, 2010, CJA attorney Bob C. Hooper of Brownsville, Tennessee was appointed to represent him. Woodruff pleaded guilty on December 6, 2010 and, on February 14, 2012, was sentenced to 120 months incarceration. He filed a notice of appeal on February 22, 2012. The sentence was affirmed by the Sixth Circuit Court of Appeals. *See United States v. Woodruff*, 735 F.3d 445 (6th Cir. 2013), *reh'g & reh'g en banc denied* (Dec. 4, 2013).

In his Petition, Woodruff asserts ineffective assistance of counsel by Mr. Hooper for failing to object to the Court's classification of his Tennessee conviction for "facilitation" as a

controlled-substance offense for purposes of sentencing. This issue was also raised on direct appeal. The Sixth Circuit declined to address the claim, noting that "[i]n this case, there is no affidavit or testimony from Woodruff's trial counsel explaining his decision not to raise an objection to the [presentence report's] finding that his conviction for facilitation was a controlled-substance offense." *Id.* at 452. In light of the appellate court's statement, the Respondent is hereby DIRECTED to obtain from Mr. Hooper, within fifteen days of the entry of this order, an affidavit such as that described by the Sixth Circuit.

IT IS SO ORDERED this 2nd day of June 2015.

s/ J. DANIEL BREEN  
CHIEF UNITED STATES DISTRICT JUDGE